



February 22, 2019

SENATE BILL No. 64

DIGEST OF SB 64 (Updated February 19, 2019 12:37 pm - DI 106)

Citations Affected: IC 10-13.

Synopsis: Criminal background check. Includes public libraries in the definition of "qualified entities" for purposes of criminal background checks. Requires qualified entities to conduct a background check under certain circumstances. Provides that a public library: (1) is not required to conduct a background check on employees or volunteers whose scope of work does not include contact with children; and (2) is required to conduct a background check on a person who conducts a performance, presentation, or workshop for children less than 14 years of age.

Effective: July 1, 2019.

Tomes, Sandlin, Doriot

January 3, 2019, read first time and referred to Committee on Rules and Legislative Procedure.

February 4, 2019, amended; reassigned to Committee on Corrections and Criminal Law.

February 21, 2019, amended, reported favorably — Do Pass.

SB 64—LS 6122/DI 13



February 22, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 64

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-13-3-16, AS AMENDED BY P.L.197-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 16. (a) As used in this chapter, "qualified entity"
4 means a business or an organization, whether public, private, for-profit,
5 nonprofit, or voluntary, that provides care or care placement services.
6 (b) The term includes the following:
7 (1) A business or an organization that licenses or certifies others
8 to provide care or care placement services.
9 (2) A home health agency licensed under IC 16-27-1.
10 (3) A personal services agency licensed under IC 16-27-4.
11 **(4) A public library (as defined in IC 36-12-1-5).**
12 SECTION 2. IC 10-13-3-39, AS AMENDED BY P.L.183-2017,
13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2019]: Sec. 39. (a) The department is designated as the
15 authorized agency to receive requests for, process, and disseminate the
16 results of national criminal history background checks that comply with
17 this section and 42 U.S.C. 5119a.

SB 64—LS 6122/DI 13



1 (b) **Except as provided in subsection (k)**, a qualified entity ~~may~~
 2 **shall** contact the department to request a national criminal history
 3 background check on any of the following persons:

4 (1) A person who seeks to be or is employed with the qualified
 5 entity. A request under this subdivision must be made not later
 6 than three (3) months after the person is initially employed by the
 7 qualified entity.

8 (2) A person who seeks to volunteer or is a volunteer with the
 9 qualified entity. **For purposes of a public library, a volunteer**
 10 **includes a person who conducts a performance, presentation,**
 11 **or workshop for children less than fourteen (14) years of age.**
 12 A request under this subdivision must be made not later than
 13 three (3) months after the person initially volunteers with the
 14 qualified entity.

15 (3) A person for whom a national criminal history background
 16 check is required under any law relating to the licensing of a
 17 home, center, or other facility for purposes of day care or
 18 residential care of children.

19 (4) A person for whom a national criminal history background
 20 check is permitted for purposes of:

21 (A) placement of a child in a foster family home, a prospective
 22 adoptive home, or the home of a relative, legal guardian to
 23 whom IC 29-3-8-9 applies, or other caretaker under section
 24 27.5 of this chapter or IC 31-34;

25 (B) a report concerning an adoption as required by IC 31-19-8;

26 (C) collaborative care host homes and supervised independent
 27 living arrangements as provided in IC 31-28-5.8-5.5; or

28 (D) reunification of a child with a parent, guardian, or
 29 custodian as provided in IC 31-34-21-5.5.

30 (5) A person for whom a national criminal history background
 31 check is required for the licensing of a group home, child caring
 32 institution, child placing agency, or foster home under IC 31-27.

33 (6) A person for whom a national criminal history background
 34 check is required for determining the individual's suitability as an
 35 employee of a contractor of the state under section 38.5(a)(1) of
 36 this chapter.

37 **However, unless otherwise required by law, a qualified entity is not**
 38 **required to request a national criminal history background check**
 39 **from the department if the qualified entity conducts an expanded**
 40 **criminal history check (as defined under IC 20-26-2-1.5) on**
 41 **persons described in this subsection within the time periods**
 42 **established in this subsection.**



1 (c) A qualified entity must submit a request under subsection (b) in
 2 the form required by the department and provide a set of the person's
 3 fingerprints and any required fees with the request.

4 (d) If a qualified entity makes a request in conformity with
 5 subsection (b), the department shall submit the set of fingerprints
 6 provided with the request to the Federal Bureau of Investigation for a
 7 national criminal history background check. The department shall
 8 respond to the request in conformity with:

9 (1) the requirements of 42 U.S.C. 5119a; and

10 (2) the regulations prescribed by the Attorney General of the
 11 United States under 42 U.S.C. 5119a.

12 (e) Subsection (f):

13 (1) applies to a qualified entity that:

14 (A) is not a school corporation or a special education
 15 cooperative; ~~or~~

16 (B) is a school corporation or a special education cooperative
 17 and seeks a national criminal history background check for a
 18 volunteer; **or**

19 **(C) is a public library and seeks a national criminal history**
 20 **background check for an employee or volunteer, including**
 21 **a person who conducts a performance, presentation, or**
 22 **workshop for children less than fourteen (14) years of age;**
 23 and

24 (2) does not apply to a qualified entity that is a:

25 (A) home health agency licensed under IC 16-27-1; or

26 (B) personal services agency licensed under IC 16-27-4.

27 (f) After receiving the results of a national criminal history
 28 background check from the Federal Bureau of Investigation, the
 29 department shall make a determination whether the person who is the
 30 subject of a request has been convicted of:

31 (1) an offense described in IC 20-26-5-11;

32 (2) in the case of a foster family home, a nonwaivable offense as
 33 defined in IC 31-9-2-84.8;

34 (3) in the case of a prospective adoptive home, an offense
 35 described in IC 31-19-11-1(c);

36 (4) any other felony; or

37 (5) any misdemeanor;

38 and convey the determination to the requesting qualified entity.

39 (g) This subsection applies to a qualified entity that:

40 (1) is a school corporation or a special education cooperative; and

41 (2) seeks a national criminal history background check to
 42 determine whether to employ or continue the employment of a



- 1 certificated employee or a noncertificated employee of a school
2 corporation or an equivalent position with a special education
3 cooperative.
- 4 After receiving the results of a national criminal history background
5 check from the Federal Bureau of Investigation, the department may
6 exchange identification records concerning convictions for offenses
7 described in IC 20-26-5-11 with the school corporation or special
8 education cooperative solely for purposes of making an employment
9 determination. The exchange may be made only for the official use of
10 the officials with authority to make the employment determination. The
11 exchange is subject to the restrictions on dissemination imposed under
12 P.L.92-544, (86 Stat. 1115) (1972).
- 13 (h) This subsection applies to a qualified entity (as defined in
14 IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After
15 receiving the results of a national criminal history background check
16 from the Federal Bureau of Investigation, the department shall provide
17 a copy to the public agency. Except as permitted by federal law, the
18 public agency may not share the information contained in the national
19 criminal history background check with a private agency.
- 20 (i) This subsection applies to a qualified entity that is a:
- 21 (1) home health agency licensed under IC 16-27-1; or
- 22 (2) personal services agency licensed under IC 16-27-4.
- 23 After receiving the results of a national criminal history background
24 check from the Federal Bureau of Investigation, the department shall
25 make a determination whether the applicant has been convicted of an
26 offense described in IC 16-27-2-5(a) and convey the determination to
27 the requesting qualified entity.
- 28 (j) The department:
- 29 (1) may permanently retain an applicant's fingerprints submitted
30 under this section; and
- 31 (2) shall retain the applicant's fingerprints separately from
32 fingerprints collected under section 24 of this chapter.
- 33 **(k) This subsection applies to a qualified entity that is a public**
34 **library. A public library:**
- 35 **(1) is not required to request a national criminal history**
36 **background check or conduct an expanded criminal history**
37 **check (as defined under IC 20-26-2-1.5) on an employee or**
38 **volunteer whose scope of work does not include contact with**
39 **children; and**
- 40 **(2) shall request a national criminal history background check**
41 **or conduct an expanded criminal history check on a person**
42 **who conducts a performance, presentation, or workshop for**



1 **children less than fourteen (14) years of age. A check required**
2 **under this subdivision shall be completed before the person**
3 **conducts the performance, presentation, or workshop.**



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 64, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:
A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Corrections and Criminal Law.

(Reference is to SB 64 as introduced.)

BRAY, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 64, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 1, delete "A" and insert "**Except as provided in subsection (k), a**".

Page 2, line 1, strike "may" and insert "**shall**".

Page 2, line 9, after "entity." insert "**For purposes of a public library, a volunteer includes a person who conducts a performance, presentation, or workshop for children less than fourteen (14) years of age.**".

Page 2, between lines 33 and 34, begin a new line blocked left and insert:

"However, unless otherwise required by law, a qualified entity is not required to request a national criminal history background check from the department if the qualified entity conducts an expanded criminal history check (as defined under IC 20-26-2-1.5)

SB 64—LS 6122/DI 13



on persons described in this subsection within the time periods established in this subsection."

Page 3, line 11, delete "volunteer;" and insert "**volunteer, including a person who conducts a performance, presentation, or workshop for children less than fourteen (14) years of age;**".

Page 4, after line 20, begin a new paragraph and insert:

"(k) This subsection applies to a qualified entity that is a public library. A public library:

(1) is not required to request a national criminal history background check or conduct an expanded criminal history check (as defined under IC 20-26-2-1.5) on an employee or volunteer whose scope of work does not include contact with children; and

(2) shall request a national criminal history background check or conduct an expanded criminal history check on a person who conducts a performance, presentation, or workshop for children less than fourteen (14) years of age. A check required under this subdivision shall be completed before the person conducts the performance, presentation, or workshop."

and when so amended that said bill do pass.

(Reference is to SB 64 as printed February 5, 2019.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 1.

